

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JUSTIN CREDICO : CIVIL ACTION
:
v. :
:
FACEBOOK, INC., et al. : NO. 14-881

MEMORANDUM

SÁNCHEZ, J.

FEBRUARY 18th, 2014

Justin Credico, a prisoner incarcerated at the Chester County Prison, filed this civil action against numerous defendants. Currently before the Court is plaintiff's motion to proceed *in forma pauperis*. For the following reasons, the Court will deny the motion pursuant to 28 U.S.C. § 1915(g).

According to § 1915(g), a prisoner who on three or more prior occasions while incarcerated has filed an action or appeal in federal court that was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted, must be denied *in forma pauperis* status unless he was in imminent danger of serious physical injury at the time that the complaint was filed. *Abdul-Akbar v. McKelvie*, 239 F.3d 307, 310-11 (3d Cir. 2001) (en banc). “[A] strike under § 1915(g) will accrue only if the entire action or appeal is (1) dismissed explicitly because it is ‘frivolous,’ ‘malicious,’ or ‘fails to state a claim’ or (2) dismissed pursuant to a statutory provision or rule that is limited solely to dismissals for such reasons, including (but not necessarily limited to) 28 U.S.C. §§ 1915A(b)(1), 1915(e)(2)(B)(i), 1915(e)(2)(B)(ii), or Rule 12(b)(6) of the Federal Rules of Civil Procedure.” *Byrd v. Shannon*, 715 F.3d 117, 126 (3d Cir. 2013). Plaintiff accumulated at least three “strikes” for purposes of 28 U.S.C. § 1915(g) at the time he filed this action. *See Credico v. Milligan*, --- F. App'x --- ,

No. 13-3629, 2013 WL 6167878 (3d Cir. Nov. 22, 2013) (dismissing appeal as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B)(i)); *Credico v. Unknown Official for U.S. Drone Strikes*, 537 F. App'x 22 (3d Cir. 2013) (same); *Credico v. CEO Idaho Nat'l Lab.*, 461 F. App'x 78 (3d Cir. 2012) (dismissing appeal as frivolous); *Credico v. Milligan*, E.D. Pa. Civ. A. No. 13-4111 (E.D. Pa.) (July 24, 2013 Memorandum and Order dismissing the case as frivolous); *Credico v. Unknown Official for Drone Strikes*, E.D. Pa. Civ. A. No. 13-1311 (E.D. Pa.) (April 15, 2013 Order dismissing the case as frivolous); *Credico v. CEO Idaho Nat'l Lab.*, E.D. Pa. Civ. A. No. 11-6025 (Oct. 4, 2011 Order dismissing the case as frivolous).

In light of plaintiff's three strikes, he may not proceed *in forma pauperis* unless he was in imminent danger of serious physical injury at the time he filed his complaint. However, his complaint, which purports to assert free speech claims and claims based on an alleged interference with plaintiff's right to learn Arabic, does not reflect that he is or was in danger at any time. Accordingly, the Court will deny his motion to proceed *in forma pauperis*. An appropriate order follows.